

REMARKS

The present Amendment is in response to the Official Action mailed September 5, 2007. Claims 1-10, 12-15, 17, and 18 have been amended herein, and claims 11 and 19-24 have either been canceled herein or previously canceled. Thus, claims 1-10 and 12-18 remain pending in the present application. The following sets forth Applicants' remarks relating to the outstanding Action and the currently pending claims.

As an initial matter, Applicants' respectfully thank the Examiner, and his Supervisor, for conducting the telephone interview of October 30, 2007 with Applicants' undersigned counsel. During that discussion, Applicants' counsel pointed out that the main reference utilized in rejecting the claims in the Action, U.S. Patent Application Publication No. 2004/0243240 to Beaurain et al. ("Beaurain"), does not anticipate the present invention. In particular, Applicants' counsel pointed out that while the presently pending claims are directed to a combination of a two piece spine implant, an insertion plate, and a drill guide, the Beaurain reference does not even mention the use of a drill guide or even a drilling procedure. The Examiner requested that the claims be amended so as to more specifically claim the structure of the present invention, as even the Examiner agreed such is very different from that taught in Beaurain. Applicants have prepared the present Amendment in accordance with the Examiner's suggestions.

In particular, independent claims 1 and 10 of the present application have been amended herein to more specifically claim the structure of the present invention. Such claims now require, among other limitations, that first and second members of an intervertebral disc replacement device are removably connected to an insertion plate and that a drill guide is removably connect with at least the insertion plate. This is far different from the construction shown in Beaurain and relied

upon by the Examiner in rejecting the claims in the outstanding Action. Furthermore, each of the three main elements of the assembly has been more specifically defined in claims 1 and 10. The first and second members of the intervertebral disc replacement device are now required to each include a flange having at least one through hole. In addition, the insertion plate is now required to have a first alignment element for engagement with a second alignment element of the guide member. None of these additional limitations are present in the assembly of Beaurain reference. As such, Applicants respectfully submit that independent claims 1 and 10 are not anticipated by Beaurain.

Certain of the dependent claims have also been amended for consistency and clarity purposes. Although each of these claims is not discussed specifically herein, such claims are allowable based solely upon their dependence from an allowable independent claim, or an intervening claim. A dependent claim is necessarily narrower than an independent from which it properly depends. Applicants have not addressed the § 103(a) rejections of certain of the dependent claims in view of the combination of Beaurain and U.S Patent Application Publication No. 2007/0106388 to Michelson, as even that combination does not teach all of the elements now claimed in the present application.

In view of the above, Applicants respectfully request allowance of each and every one of currently pending claims 1-10 and 12-18. In any event, the present Amendment is being submitted along with a Request for Continued Examination ("RCE") because of the finality of the outstanding Action. The Examiner is thusly requested to remove the finality of the Action and enter the present Amendment accordingly.

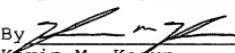
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 31, 2007

Respectfully submitted,

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